

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/18**
Date: **12 May 2026**

THE PRESIDENCY

Before: Judge Tomoko Akane, President
Judge Rosario Salvatore Aitala, First Vice-President
Judge Reine Alapini-Gansou, Second Vice-President

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

Public

Decision on ‘Amended Request under Regulation 119 of the Regulations of the Court for Preservation Measures, a Certified Administrative Chronology, and Transmission Concerning the Registry’s Handling of the Khan – Alagendra Conflict and Related Communications’ (ICC-02/18-162-Conf-Anx)

Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☒ **The Office of Public Counsel for
Victims**

☐ **The Office of Public Counsel for the
Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and Reparations
Section**

☒ **Other
Applicant**

The Presidency of the International Criminal Court (the ‘Court’) has before it the application of Mr Robert Carmona-Borjas and the Arcadia Foundation (together, the ‘Applicant’) received by the Court on 22 April 2026 (the ‘Application’).¹

The Application is rejected for the reasons set out below.

I. BACKGROUND

1. The Application relates to prior proceedings concerning the disqualification or excusal of the Prosecutor, with the Applicant raising concerns regarding the administrative handling by the Registry of certain communications, records, complaints and procedural steps related to an alleged conflict of interest of the Prosecutor and a counsel.² With this in mind, the Applicant seeks an order from the Presidency for the preservation of certain records and the provision of a certified administrative chronology of all relevant communications.³ He further requests the Presidency: (i) to determine whether the Registry’s conduct or omissions should be assessed, referred, or transmitted to the competent authority under the Court’s internal framework; and (ii) to authorise that the Application be placed on the public record or transmitted to the Appeals Chamber for information.⁴
2. The Presidency recalls that, on 12 November 2024, the Applicant requested the disqualification of the Prosecutor in the *Situation in the Bolivarian Republic of Venezuela I* (the ‘Venezuela I Situation’) before the Appeals Chamber, submitting that there was a ‘a clear conflict of interest, arising from the familial relationship between the Prosecutor and Venkateswari Alagendra, a defence attorney representing Nicolás Maduro Moros’ (the ‘Request for Recusal’).⁵ On 10 February 2025, the Appeals

¹ Applicant, Amended Request under Regulation 119 of the Regulations of the Court for Preservation Measures, a Certified Administrative Chronology, and Transmission Concerning the Registry’s Handling of the Khan – Alagendra Conflict and Related Communications, 24 April 2026, ICC-02/18-162-Conf-Anx, *annexed to* Registry, Registry Transmission of an “Amended Request under Regulation 119 of the Regulations of the Court for Preservation Measures, a Certified Administrative Chronology, and Transmission Concerning the Registry’s Handling of the Khan – Alagendra Conflict and Related Communications”, 24 April 2026, ICC-02/18-162-Conf, para. 1.

² Application, para. 2.

³ Application, paras 4, 28-29, 36, 43.

⁴ Application, paras 4-5, 36, 43.

⁵ Applicant, [Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest](#), 12 November 2024, ICC-02/18-92-AnxII, p. 1 (emphasis omitted), *annexed to* Registry, Registry Transmission of a “[Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest](#)”, 12 November 2024, ICC-02/18-92.

Chamber dismissed the Request for Recusal as inadmissible for lack of standing.⁶ The Appeals Chamber also dismissed the ‘Urgent Motion to Address Procedural Irregularities’ and the ‘Request to Address Procedural Failures and Ethical Oversight by the ICC Registry in the Context of the *Venezuela I Situation*’ filed by the Applicant, noting that they fell outside the scope of the Appeals Chamber’s review.⁷ On 19 September 2025, the Appeals Chamber dismissed a further submission from the Applicant, the ‘Request for Targeted Transparency Measures to Safeguard Judicial Integrity Following the Appeals Chamber’s Decision of 1 August 2025 (ICC-02/18-118)’, which sought *inter alia* that the Registrar search and certify certain Registry records.⁸

3. On 18 August 2025, the Prosecutor requested the authorisation of the Presidency to excuse himself from the Venezuela I Situation.⁹ On 2 September 2025, an *ad hoc* Presidency granted the Prosecutor’s request to be excused from the Venezuela I Situation.¹⁰

II. MERITS

A. Application

4. The Applicant requests that the Presidency ensure the preservation of all Court records, communications and filings pertaining to the Prosecutor’s involvement in the Venezuela I Situation, and to designate a senior Court official without any prior involvement in the matter to produce a concise certified administrative chronology identifying the receipt, non-receipt, routing, consultation, transmission, classification, and follow-up of relevant communications.¹¹ The Applicant stresses that his Application is made in two distinct capacities, ‘his own capacity as a recognised victim in the

⁶ Appeals Chamber, [Decision on the “Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest”](#), 10 February 2025, ICC-02/18-109 (the ‘Decision of 10 February 2025’), p. 3, para. 68.

⁷ Decision of 10 February 2025, p. 3, para. 56.

⁸ Appeals Chamber, [Decision on the “Request for Clarification on the Competence of Deputy Prosecutors to Conduct Investigations in the Situation in the Bolivarian Republic of Venezuela I” and the “Request for Targeted Transparency Measures to Safeguard Judicial Integrity Following the Appeals Chamber’s Decision of 1 August 2025 \(ICC-02/18-118\)”](#), 19 September 2025, ICC-02/18-127 (the ‘Decision of 19 September 2025’), p. 3, 13-14, 19.

⁹ Prosecutor, [Prosecutor’s Request to be Excused from the Venezuela I Situation](#), 18 August 2025, ICC-02/18-121, paras 1, 20.

¹⁰ *Ad hoc* Presidency, [Decision on the ‘Prosecutor’s Request to be Excused from the Venezuela I Situation’](#), 2 September 2025, ICC-02/18-125 (the ‘Decision of 2 September 2025’), pp. 3, 13.

¹¹ Application, paras 4, 28-29, 36, 43.

Venezuela I Situation’ and as Chief Executive Officer and representative of the Arcadia Foundation acting on behalf of victims in the same situation, requesting that both capacities be reflected with precision.¹²

5. The Applicant also requests that the Presidency determine whether the Registry’s conduct, omissions, routing decisions, transmission choices, or possible failure to act *proprio motu* by the Registry under the responsibility of the Registrar should be assessed, referred, or transmitted under the Court’s applicable legal framework to the competent organ to assess Registry-related conduct.¹³ In this regard, he points to the Presidency’s responsibility for the proper administration of the Court under articles 38 and 43 of the Rome Statute (the ‘Statute’) and refers to regulations 119 and 120 of the Regulations of the Court (the ‘Regulations’) concerning complaints against elected officials but notes that he is not requesting that the Registrar be disciplined, removed, sanctioned or disqualified.¹⁴

6. Finally, the Applicant requests the Presidency to authorise that a public version of the Application be placed on the record of the Venezuela I Situation, or transmitted to the Appeals Chamber for information.¹⁵

B. Determination of the Presidency

7. Before addressing the merits, the Presidency notes that it has given due consideration to the question of whether any issues of impartiality arise with respect to any of its members determining the Application. President Tomoko Akane is a member of the Appeals Chamber and, in this capacity, has determined various requests placed before that Chamber concerning the Prosecutor and his involvement in the Venezuela I Situation.¹⁶ Second Vice-President Reine Alapini-Gansou is a member of Pre-Trial Chamber I in the Venezuela I Situation and, in that capacity, has also received various filings from the Applicant.¹⁷ The First and Second Vice-President both determined the Prosecutor’s

¹² Application, paras 7-9.

¹³ Application, paras 4, 36, 43.

¹⁴ Application, paras 1, 3, 5, 19, 31, 39, 43.

¹⁵ Application, paras 4, 38, 43.

¹⁶ See Decision of 19 September 2025; Decision of 10 February 2025.

¹⁷ See Pre-Trial Chamber I, [Decision dismissing in limine a request from Arcadia Foundation and setting the procedure regarding requests for authorisation to file submissions](#), 23 December 2025, ICC-02/18-150, paras 4-8; Pre-Trial Chamber I, [Decision dismissing in limine a request for authorisation to file submissions from Arcadia Foundation](#), 14 January 2026, ICC-02/18-152, pp. 3-4, paras 3-4.

request for excusal.¹⁸ Noting that the Application pertains to administrative functions of the Presidency and that there is no subject-matter overlap between the requests from the Applicant which were previously considered, each member of the Presidency considers that there is no need to seek their own excusal from the present Application. As a further preliminary matter, the Presidency takes note that the Application is made in two different capacities as an individual and as a representative, noting that its findings below are relevant to both such capacities.

8. The Applicant submits that there are two legal bases for action by the Presidency: the Presidency's disciplinary functions and its administrative functions.¹⁹ Turning first to the disciplinary functions, the Presidency recalls that regulation 119 of the Regulations provides that all complaints of misconduct or breach of duty against an elected official, including the Registrar, shall be submitted to the Presidency. Regulation 120 of the Regulations states that the Presidency shall determine whether a complaint is anonymous or manifestly unfounded. These provisions and procedure have been superseded by an amendment of rule 26 of the Rules of Procedure of Evidence (the 'Rules'),²⁰ which now stipulates in sub-rule 2 that all complaints shall be transmitted to the Independent Oversight Mechanism (the 'IOM') and in sub-rule 3 that it is for the IOM to assess complaints and set aside any manifestly unfounded complaints. Most recently, the Rules were amended in December 2025, establishing further procedural requirements concerning complaints against elected officials.²¹ The procedures set out in regulations 119 and 120 of the Regulations are in conflict with the revised regime in the Rules. Regulation 1(1) of the Regulations provides that the Regulations 'shall be read subject to the Statute and the Rules', reflecting a clear hierarchy of norms.²² In the event of a conflict between the Rules and the Regulations, the former must prevail.
9. Given that regulation 119 of the Regulations has been superseded by amendments to rule 26 of the Rules, the Presidency no longer has a role to play in receiving or transmitting complaints against elected officials. Any allegations against individual staff

¹⁸ Decision of 2 September 2025, pp. 1, 13.

¹⁹ Application, paras 4-5, 31, 39, 43.

²⁰ Assembly of States Parties, [Resolution on amendments to rule 26 of the Rules of Procedure and Evidence](#), 11 December 2018, ICC ASP/17/Res.2.

²¹ Assembly of States Parties, [Resolution on amendments to the Rules of Procedure and Evidence of the International Criminal Court](#), 5 December 2025, ICC ASP/24/Res.1, pp. 2-5.

²² See also articles 51(5) and 52(1) of the Statute.

members of the Registry would also fall outside the Presidency's remit and be a matter to be handled by the Registrar or the IOM.²³ The IOM shall receive all allegations of misconduct against staff members and is the only body authorised to receive and investigate complaints against elected officials.²⁴ For these reasons and noting, moreover, the Applicant's indication that he is not requesting that the Registrar be disciplined, removed, sanctioned or disqualified,²⁵ the Presidency rejects the Applicant's request that it examine the Registry's conduct under regulation 119 or 120 of the Regulations or the Court's disciplinary framework.

10. Second, as regards its administrative functions, the Presidency recalls that pursuant to article 38(3)(a) of the Statute, the Presidency is responsible for the proper administration of the Court and article 43(2) of the Statute provides that the Registrar exercises his or her functions under the authority of the President. The Presidency considers that the Presidency's general responsibilities in this regard do not, as such, provide a legal basis to seek a judicial remedy or review by the Presidency. Article 38(3)(a) of the Statute does not provide a cause of action for parties or participants to proceedings to seize the Presidency, noting in addition that the Applicant was found to lack standing before the relevant Chambers. The Applicant thus lacks a valid legal basis to seek administrative action from the Presidency. Moreover, the Applicant's allegations against the Registry are entirely speculative and unsubstantiated. The Presidency further considers that the issue of conflict raised by the Applicant in the Venezuela I Situation has been fully resolved and notes that this matter is no longer active before any Chamber of the Court. In light of these circumstances, the Presidency is not persuaded that any administrative action is required.

11. Additionally as regards procedure, the Presidency observes that the Applicant made multiple submissions, including repeated submissions on the same matter, before Pre-Trial Chamber I, the Appeals Chamber and the Presidency but was consistently found to lack standing. The Applicant further indicates having addressed the Commissioner for

²³ See President, Staff Regulations for the International Criminal Court, [ICC/PRES/D/G/2024/002](#), Annex I, article X; President, Staff Rules of the International Criminal Court, [ICC/PRES/D/G/2024/002](#), Annex II, chapter X; Registrar, Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings, 14 March 2022, ICC/AI/2022/002, sections 3.1(a)(ii), 5; Registrar, Administrative Instruction on Investigations of Unsatisfactory Conduct, 14 March 2022, ICC/AI/2022/001, sections 3.4(b), 4.3(b) and (c).

²⁴ Assembly of States Parties, [Revised Operational Mandate of the Independent Oversight Mechanism](#), ICC-ASP/24/Res.2, Annex II, paras 8-9.

²⁵ Application, para. 3.

misconduct by counsel regarding the alleged conflict of the Prosecutor and Ms Alagendra but that the Commissioner dismissed the complaint.²⁶ The Presidency stresses that the Court's resources are limited and that the Registry may be directed by the Presidency or a Chamber not to accept any further related filings.

III. CLASSIFICATION

12. The Applicant seeks authorisation to file the Application with a public classification. Noting that the Application contains references to confidential correspondence, the Presidency considers that the Application shall remain confidential.²⁷ The Presidency further declines to authorise the filing of a public version of the Application, noting that it is not in the public interest for entirely baseless, speculative and unsubstantiated allegations implying misconduct to be given any further publicity. Moreover, the allegations against the Registry are already reflected on the public record.²⁸ There is thus full transparency in this regard and no need to further engage Court resources on this matter.

For the reasons set out above, the Presidency *rejects* the Application.

Done in both English and French, the English version being authoritative.

赤根 智子

Judge Tomoko Akane
President



Judge Rosario Salvatore Aitala
First Vice-President



Judge Reine Alapini-Gansou
Second Vice-President

Dated this 12 May 2026

At The Hague, The Netherlands

²⁶ Application, paras 23-25.

²⁷ See regulation 23 *bis* (2) of the Regulations.

²⁸ See e.g. Applicant, [Request to Address Procedural Failures and Ethical Oversight by the ICC Registry in the Context of the Venezuela I Situation](#), 10 February 2025, ICC-02/18-107-Anx-Red.